



CITY COUNCIL STAFF REPORT

MEETING DATE: September 4, 2002

RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2002 QUARTERLY REPORT NO. 3

RECOMMENDED ACTION(S):

Accept and File the RDCS Third Quarter Report.

EXECUTIVE SUMMARY:

In accordance with Section 18.78.150 of the Municipal Code, the Community Development Department is required to review, on a quarterly basis, each proposed development which has received a Residential Development Control System (RDCS) allotment. The purpose of this review is to determine whether satisfactory progress is being made with processing of the appropriate plans with the Community Development Department.

All of the residential projects in the Quarterly Report are proceeding according to approved development schedules or have recently received extensions of time. During the third quarter monitoring period, RDCS/Measure "P" projects have secured 112 additional building permits and completed the construction of 47 homes.

Beginning with the next Quarterly Report, the Planning Commission has asked that staff include projected city population estimates based on dwelling units allocated to date that are not yet constructed. Unless Measure P is amended, this information will be necessary to insure that we don't overshoot the 38,800 population limit before 2010. It is estimated that units already in the pipeline will bring the city population up to around 37,000+. The next Measure P competition will award building allocations through Fiscal Year 2005-06. Our ability to conduct a competition beyond the 2005-06 fiscal year would be determined based on the most recent Department of Finance Population Estimate and the projected population from all of the dwelling units allocated in the system up to that point in time.

By a vote of 6-0, with one Commissioner absent, the Commission approved the Quarterly Report by minute action and recommended the same by the Council. A copy of the 2002 RDCS Quarterly Report #3, and the minutes of the August 13, 2002 Planning Commission meeting is attached for the Council's reference.

FISCAL IMPACT:

Preparation of this report was accomplished with monies from the Community Development Fund.

Agenda Item # 1

Prepared By:

Planning Manager

Approved By:

**Community
Development Director**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 4, 2002

SUBDIVISION APPLICATION SD 02-02: COCHRANE- COYOTE ESTATES

RECOMMENDED ACTION(S): Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

Agenda Item # 2

Prepared By:

Assistant Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

EXECUTIVE SUMMARY:

The applicant is requesting approval of a 6-lot subdivision of an 1.875 acre portion of a 14.9 acre site within the 70-acre Coyote Estates development located on the west side of Peet Avenue, north of Cochrane Road.

As of May 14, 2002, the Planning Commission awarded 6 allocations for FY 2003-2004 which will be the beginning of Phase VII of the project, which is expected to have a total of 24 units.

Phases I through V (114 Units) have been approved in previous tentative maps and completed. Phase VI (16 Units) received its building allotments and tentative map approval.

The subdivision map as submitted is in compliance with the RPD plan approved by the City Council earlier in July. The lot sizes and locations are each per the approved RPD.

Section 17.20.110 of the Subdivision Ordinance provides for City Council review of tentative maps which have been approved by the Planning Commission. The Council may schedule a hearing to reconsider the Commission action, or by taking no action, let the Commission's action of approval stand.

This application was reviewed by the Planning Commission at its August 13, 2002, meeting. The Commission voted 6-0, approving the request, with one Commissioner absent. The Planning Commission resolution, conditions of approval and the subdivision map are attached. The staff report and minutes for the subdivision are attached to the development agreement request within this same agenda.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 4, 2002*

SUBDIVISION AMENDMENTS: SDA-00-15: HALE-DELCO (SHENG)

RECOMMENDED ACTION(S): Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map amendments.

EXECUTIVE SUMMARY: A request to amend the subdivision approval for the 18 lot (Hale-Sheng) subdivision located on the west side of Hale Ave., 600 ft. south of the Llagas Ave./Hale Ave. intersection. The proposed amendment is a request to modify the minimum lot width requirements within the subdivision.

The City Council approved the subdivision and precise development plan for the project at their August 15, 2001 meeting. In March of this year, the Commission and Council approved an amendment to the initial subdivision approval allowing for the elimination of the following subdivision conditions of approval:

- ~~X1. The minimum lot width for the duet and end unit parcels shall be 40 ft.~~
- ~~X3. The minimum lot width for the center, triplex parcels shall be 30 ft.~~

As part of the March 2002 amendment, lot widths were specified for each of the individual lots within the subdivision.

Subsequent to the March amendment approval, improvement plans were reviewed and approved by the County's Roads and Airports Department. The County requires a right of way width of 110 ft. on Hale Ave. (a.k.a. Santa Teresa Blvd.). An additional 15 ft. of right of way is also necessary at intersections to allow for the creation of acceleration/deceleration lanes. This project creates an intersection with Hale Ave. and therefore has been required to provide an additional 15 ft. of right of way. This requirement has impacted the project's ability to meet the minimum lot widths specified in the March resolution.

The amendment requested at this time is as follows:

Lot	Width in ft.	Lot	Width in ft.	Lot	Width in ft.
1.	67.4 65.98	5.	33.5	10.	42.0 32.0
2.	45.5 55.07	6.	27.5	11.	36.22 36.4
3.	27.5 35.89	7.	87.4 76.9	12.	27.69 27.5
4.	33.5	8.	49.8 38.9	13.	49.03
		9.	27.7		

On August 13, the Planning Commission considered the subdivision amendment request and voted (6-0) to approve the request, with one Commissioner absent. A copy of the Commission staff report and minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 3

Prepared By:

Senior Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



**CITY COUNCIL
STAFF REPORT**
MEETING DATE: September 4, 2002

TITLE: SKATE PARK RELOCATION SURVEY

RECOMMENDED ACTIONS:

1. Accept report of a survey regarding the future relocation of the temporary skate park.

EXECUTIVE SUMMARY: During the month of August 2002, Recreation Division staff conducted a brief survey of current skate park users to elicit their opinions and preferences regarding a future site for a permanent BMX/Skate Park. The purpose of the survey was to determine the level of support for locating a permanent BMX/Skate Park at the new recreation center being proposed on Edmondson Ave. adjacent to Community Park.

Staff interviewed 42 skate park users at the temporary skate park with the following results. (Individual survey responses may not all total 42 since some chose not to answer all questions.)

1. Of those surveyed, 37 were male and 5 female; 12 were adults and 27 were under the age of 18; and 38 of the users indicated they were residents of Morgan Hill.
2. Those surveyed were asked what sport they participated in. 30 indicated they were skateboarders, 13 were in-line skaters and 1 was a BMX biker. (Note that some indicated they participated in more than one activity.) Of those interviewed, 33 said they use the existing park 1-5 times per week and 9 said they used it 6-10 times per week. No one interviewed said they used the park more often.
3. Those surveyed were asked if they knew the existing skate park was only a temporary facility. 19 said they were aware it was only temporary while 21 thought it was permanent.
4. Those surveyed were asked if they were aware that a permanent BMX/Skate Park facility could possibly be located at the new recreation center next to Community Park. 15 said they were aware of that location was being considered while 27 said they were not.
5. Finally, those surveyed were asked if they thought a permanent BMX/Skate Park adjacent to Community Park would be a good location. 40 of the 42 persons surveyed said that it would be a good place with only one person saying that it would not. This person would prefer that a permanent Skate Park be located behind the current City Hall. One person did not respond. Some written and verbal comments to the survey also suggest that a convenient/central location is of paramount importance. One person also added the opinion that it was important that any future Skate Park be free of charge and unsupervised.

Based on this survey, it can be concluded that regardless of whether current users were aware that the existing facility is temporary or that a possible future site near Community Park was being considered, there is overwhelming support for a conveniently located, permanent location and that a BMX/Skate Park adjacent to Community Park would serve that need and receive the users support.

FISCAL IMPACT: N/A

Agenda Item # 4

Prepared and
Submitted By:

Recreation Supervisor

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 4, 2002*

Agenda Item # 5

**Prepared and
Approved By:**

(Department Director)

Submitted By:

City Manager

ESTABLISHMENT OF ADDITIONAL BUILDING INSPECTOR POSITION AND PUBLIC SAFETY DISPATCHER POSITION FOR LIMITED PERIOD BECAUSE OF UNUSUAL CIRCUMSTANCES

RECOMMENDED ACTION(S):

1. Establish additional Building Inspector Position and Public Safety Dispatcher Position for limited period
2. Appropriate \$72,302 in the Community Development Fund (206) for Fiscal Year 2002/03.
3. Appropriate \$64,492 in the General Fund (010) for Fiscal Year 2002/03.

EXECUTIVE SUMMARY:

Day-to-day City operations in the building division of the Community Development Department and in the dispatcher division of the Police Department are currently being strained because of the necessity for one employee in each division to be off work for an extended period of time. These employees are covered by workers' compensation statutes and they have not yet been declared as permanent and stationary by their attending physicians. Until the time that the workers can return to work or qualify for vocational rehabilitation benefits, their positions cannot be "overfilled" by another employee, except by hourly temporary employees or by overtime by other employees. The City has been unable to find qualified temporary employees so co-workers in the two divisions have been working many overtime hours to fill in. At this time, staff recommends establishing and funding two additional benefitted positions for one year, or until such time as the two claims are resolved. The positions will be eliminated (and the funding frozen) at the time the injured worker returns to work or, in the event the employee cannot return to work, the new individual will be moved into the original position. It is anticipated that resolution in both departments will occur by the end of fiscal year 2002-03.

FISCAL IMPACT:

Appropriations to the Community Development Fund (206) and the General Fund (010) will need to be made to cover the emergency positions and will be monitored and suspended upon resolution of the workers' compensation claims. There will be cost savings recovered in filling the positions by reducing the significant amount of overtime hours of other employees and reducing the use of temporary, contract employees.

LIST OF ATTACHMENTS:

ATTACHMENT A

Agenda Budget Scorecards



CITY COUNCIL STAFF REPORT

MEETING DATE: September 4, 2002

APPROVAL OF IMPROVEMENT AGREEMENT WITH RICHARD A. RAYNES, ROBERT C. DOBKIN, AND KATHLEEN C. DOBKIN FAMILY TRUST

RECOMMENDED ACTION: Approve the attached Improvement Agreement and authorize the City Manager to sign the agreement on behalf of the City with Richard A. Raynes, Robert C. Dobkin, and Kathleen C. Dobkin Family Trust

EXECUTIVE SUMMARY:

This agreement is to guarantee the construction off-site improvements at the end of Adams Court and along a portion of Cochrane Road. The off-site improvements at the end of Adams Court will provide for the connection of Adams Court to the planned extension Butterfield Boulevard in the future. These public improvements are a condition of approval for the applicant's building permit request to construct a 5.9 acre commercial business park located at 18800 Adams Court. The estimated construction cost of the public improvements is \$125,384.

The applicant has furnished the City with the necessary documents and has made provision with the City to provide bonds guaranteeing the completion of public improvements prior to issuance of the building permit. Staff recommends that City Council approve the attached Improvement Agreement and authorize the City Manager to sign on behalf of the City.

FISCAL IMPACT:

Development review for this project is paid from development processing fees.

Agenda Item # 6

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: September 4, 2002

CHANGE ORDER APPROVAL FOR ADDITIONAL WORK ON THE 2001/02 ROADWAY REPAIR AND SLURRY SEAL PROJECT

RECOMMENDED ACTION(S): Approve change order in the amount of \$76,315.00 from the 2002/03 Pavement Rehabilitation Project for additional work on the 2001/02 Roadway Repair and Slurry Seal Project by contractor Silicon Valley Paving.

EXECUTIVE SUMMARY:

On July 10, 2002, Council awarded a contract to Silicon Valley Paving for the 2001/02 Roadway Repair and Slurry Seal Project in the amount of \$147,222.75. The contractor has completed most of the original work and staff requests approval to issue a change order to this contract to complete our budgeted 2002/03 street slurry work in accordance with our Pavement Management Report. The requested change order is for additional work that includes slurry sealing, pavement repair, and striping on local residential streets in the Calle Enrique neighborhoods as shown on the attached map. Limited pavement repair will also be performed in the Murphy Springs/Fox Hollow Area.

Staff has been very satisfied with the work completed by Silicon Valley Paving and recommends extending the work by change order. Change orders over 10% of the original bid must be approved by Council.

FISCAL IMPACT:

The total cost for this change order is \$83,947 (which includes a 10% contingency of \$7,632) and will be funded by the 2002-03 Capital Improvement Program (CIP) Budget, Project #519096, Pavement Rehabilitation Program, Street Maintenance fund. This change order will increase the total bid amount for the project to \$223,537.75.

Agenda Item # 7

Prepared By:

Junior Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 4, 2002

ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9158, THE VILLAS PH. II SUBDIVISION

RECOMMENDED ACTION(S):

1. Adopt the attached resolution accepting the subdivision improvements included in Tract 9158, commonly known as the Villas Ph. II.
2. Direct the City Clerk to file a Notice of Completion with the County Recorder's office.

EXECUTIVE SUMMARY:

This 28 lot subdivision is located at the intersection of San Benito Avenue and San Gabriel Avenue (see attached location map). The subdivision improvements have been completed in accordance with the requirements of the Subdivision Improvement Agreement between the City of Morgan Hill and Marrad Group, Inc. dated March 13, 2000 and as specifically set forth in the plans and specifications approved by the City.

The streets to be accepted are:

<u>Street Name</u>	<u>Street Length</u>
San Gabriel Court	0.10 miles

FISCAL IMPACT:

Staff time for this project was paid for by development fees.

Agenda Item # 8

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO. 5611

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL
ACCEPTING THE SUBDIVISION IMPROVEMENTS FOR TRACT 9158, THE
VILLAS PHASE II.**

WHEREAS, the owner of Tract 9158, designated as the Villas Ph. II, entered into a Subdivision Improvement Agreement on March 13, 2000: and

WHEREAS, Jim Ashcraft, City Engineer, has certified in writing to the City Council that all of said improvements have been installed according to the City specifications and plans for said subdivision.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, AS FOLLOWS:

1. The City Council hereby finds and determines that all public improvements required to be constructed pursuant to the above-mentioned Subdivision Improvement Agreement have been completed in accordance with the plans and specifications for said improvements.
2. This resolution shall constitute an interim acceptance of all said public improvements and the date of its passage shall constitute the starting day for computing the one year maintenance provisions referred to in Paragraph 10 of the Subdivision Improvement Agreement of March 13, 2000.
3. The City Clerk, following adoption of this resolution, will file with the Recorder of Santa Clara County, California a Notice of Completion of the subdivision public improvements.
4. If requested by the developer or subdivider, the City Clerk hereby is authorized to record a certified copy of this resolution with the Recorder of Santa Clara County, California.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 4th Day of September, 2002 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🔑 CERTIFICATION 🔑

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5611, adopted by the City Council at the Regular Meeting on September 4, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 4, 2002*

Agenda Item # 9

**Prepared and
Approved By:**

(Department Director)

Submitted By:

City Manager

AMENDMENT TO THE MANAGEMENT RESOLUTION

RECOMMENDED ACTION(S):

1. Adopt the attached resolution amending the Management, Professional and Confidential Employees Resolution 5571 to assign a new job description and salary range for position of Sr. Project Manager/Community Buildings

EXECUTIVE SUMMARY:

The City's many current CIP projects including the Community and Cultural Center, Playhouse, Library, Indoor Recreation Center, Aquatics Center and Police Building have created the need for creating this new position of Sr. Project Manager/Community Buildings. The position will assist other current City employees who have been temporarily assigned principal project manager duties for one or more of the community buildings underway. The assistance provided by this position will be during all phases of design and construction of the various public building projects. Principal project managers would continue to be responsible for the overall project, however, this position would provide expertise in the building design and construction area on a regular basis as well as formal review at key decision points (attachment A).

HR Staff developed the attached classification specification (attachment B), which requires California registration as a licensed architect, with input from all interested City staff and comparison with comparable positions in other jurisdictions. The salary assigned to this new classification (attachment C) is based on a survey of similar positions in other agencies, as well as a comparison with similar classifications within the City's current classification and compensation structure.

FISCAL IMPACT:

There is no fiscal impact on the current budget. Instead, monies will be reallocated between the CIP building projects professional services and the RDA administration budget. It is also anticipated that the filling of this position will result in a reduction of costly change orders as the community buildings move through the construction phase. In addition, staff recommends that if the City is unable to recruit a full-time employee for this position that it be filled by an independent contractor fulfilling the same responsibilities.

LIST OF ATTACHMENTS:

ATTACHMENT A

Rationale for Sr. Project Manager/Community Buildings

ATTACHMENT B

Proposed Classification Specification

ATTACHMENT C

Resolution Establishing Position and Salary Range

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - AUGUST 21, 2002**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 5:02 p.m.

ROLL CALL ATTENDANCE

Present: Chairman/Mayor Kennedy, Council/Agency Members Carr, and Tate
Arriving Late: Council Members Chang and Sellers

DECLARATION OF POSTING OF AGENDA

Office Assistant II Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSION ANNOUNCEMENT

Mayor Kennedy announced the following closed session item:

CLOSED SESSION:

1.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code 54957

Public Employee Performance Evaluation: City Manager

Attendees: City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments being offered, the public comment was closed.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 5:04 p.m.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 7:10 p.m. All Council Members were present.

CLOSED SESSION ANNOUNCEMENT

Mayor Kennedy announced that there was no reportable action taken in closed session, and that

closed session would continue after the regular meeting.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairperson Kennedy, Teri Nelson of the YMCA led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy declared August 24, 2002, National Gymnastics Day and presented this proclamation to Mr. Tharien Bramhall and several members of the Morgan Hill Gymnastics Club. Morgan Hill Gymnastics Club is celebrating its sixth year of offering gymnastics programs to the community, and is working with the National Association of Children's Miracle Network Hospitals and the Network of State Fitness Councils to raise community awareness for the need to support athletic and gymnastic programs in schools.

Mr. Bramhall spoke about the vision to create more awareness of physical fitness in the community with the goal to install the sport of gymnastics back into the Morgan Hill Unified School District. He stated that they want to give kids the best opportunity possible to be fit and compete in gymnastics.

Mayor Kennedy proclaimed September National Alcohol and Drug Addiction Recovery Month as an opportunity for individuals in the substance abuse treatment community to educate the public and policymakers about the effectiveness of treatment, both societal and financial. Substance abuse is a treatable disease and treatment of addiction is as successful as the treatment of other chronic diseases such as diabetes, hypertension, and asthma. There are thousands of health care providers who have dedicated their lives to the recovery process and to the education of the public about alcoholism, drug dependence, and the treatment issues. Mayor Kennedy invited all residents of Morgan Hill to participate in National Alcohol and Drug Addiction Recovery Month.

CITY COUNCIL REPORT

Council Member Chang reported that South County Regional Wastewater Authority (SCRWA) will be ready next month to do the first phase of the wetland presentation to the Regional Board; and that it will require three presentations in order to be able to apply for a permit. Currently set for September 20.

Council Member Chang also announced the October 12 BBQ fund-raising event for the Day Worker Center. She stated that this is not a City-sponsored event, but that all the Council Members are involved on a personal volunteer basis. Invited the citizens of Morgan Hill to purchase tickets and support this worthy fund-raising effort.

CITY MANAGER'S REPORT

City Manager Tewes stated that it is the 8th week without a State budget being passed, and that there is no indication of when it will be approved. He reported that there is some concern for the city budget because it was based on assumptions of anticipated revenues being at prior year's levels, but until the budget passes there is no way to know how much we will actually be receiving.

City Manager Tewes then introduced the acting City Attorney for tonight's meeting, Sandy Sloan. She is serving at tonight's meeting while Ms. Leichter is on vacation.

He also mentioned the upcoming "Family Movie Night Under the Stars" being sponsored in part by Leadership Morgan Hill. This event is free and will be held August 24 starting at 6:30 p.m. at Britton Middle School, with the movie showing at 9:00 p.m. He extended an invitation to everyone to attend this event.

CITY ATTORNEY'S REPORT

No report.

OTHER REPORTS

Youth Advisory Committee (YAC) Chairperson Billy Lewis reported to the Council on the upcoming Fund-raiser planned for 11:00 a.m. to 10:00 p.m. on August 25, 2002, at Chevy's Fresh Mex restaurant in Gilroy. Chevy's has agreed to donate 20% of the total bill for lunch or dinner from any customer who presents a YAC fund-raiser flyer. He invited all Council Members and the public to participate in this fund-raiser and support the YAC.

PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda.

No comments being offered, public comment was closed.

CONSENT CALENDAR:

Action: *At the request of Mayor Kennedy, Item 5 was pulled for discussion; and at the request of Council Member Sellers, Item 10, was pulled for discussion. Item 16 required a separate vote.*

Action: *On a motion by Council Member Tate, and seconded by Council Member Carr, the Council unanimously approved (5-0) Consent Calendar Items 1 through 4, 6 through 9, 11 through 15, and 17, as follows:*

1) **YMCA FRIENDLY INN LEASE AND SENIOR CENTER OPERATOR
CONSULTANT AGREEMENTS**

Action: ***Authorized** the City Manager to Execute a Contract in the Amount of \$75,000 for the Operations of the Senior Center, subject to City Attorney Review and Approval; and **Entered Into** a Lease for the Use of the Friendly Inn With the YMCA.*

2) **APPROVAL OF POLICE RADIO CONSOLE REPLACEMENT**

Action: ***Authorized** the Replacement of Police Radio Console Equipment With the Motorola Centracom Elite From Motorola.*

3) **APPROVAL OF COPY MACHINE LEASE FOR POLICE DEPARTMENT-
RECORDS**

Action: ***Authorized** the lease of a Xerox DC440AS Digital Copier System Through Precision Document Systems, Inc.; and **Declared** the Sharp SF2040 Copier (Serial Number 76202461) Surplus and **Authorized** Disposal by Purchasing Officer*

4) **APPOINTMENTS TO MOBILE HOME RENT COMMISSION**

Action: ***Approved** Mayor Kennedy's Appointment of Charles Dillmann, Robert Graham, and John Liegl to Serve on the City's Mobile Home Rent Commission With Terms Expiring June 1, 2004.*

5) **SUPPORT FOR TEACHER'S AID PROJECT**

At the request of Mayor Kennedy, Council Member Tate reported on this item. He stated that this project was started about four years ago by Dr. John Hatakayama to provide support to teachers for supplies that are not covered by the school budget. Teachers usually pay for these items from their own pockets, and the cost can run as high as \$1,400 a year. These items include things like kleenex, extra art supplies, and so forth. Dr. Hatakayama started collecting these items from citizens and businesses who had extra supplies to donate to the schools, and the project has grown over the years to a partnership with local businesses and citizens to provide these supplies. Several community members are now involved with the steering committee for this project. The intent of this agenda item is to get the City involved in this project to aid them in this endeavor.

Council Member Tate invited citizens to become involved as well, by delivering to Dr. Hatakayama's office (Phone number: 779-7391) any donated supplies that could be used by the students; or by donating money toward the cost of these supplies at Jody's Junction Stationers.

Action: *On Motion by Council Member Tate, and seconded by Council Member Carr, the Council unanimously **approved** (5-0) Consent Calendar Item #5, to Officially Co-Sponsor the Teacher's Aid Project*

6) **SUBDIVISION APPLICATION SD 02-03: HALE-GLENROCK/SHEA**

Action: ***Took No Action**; Thereby Concurring With the Planning Commission's Decision Regarding Approval of the Subdivision Map.*

7) **REJECTION OF BID FOR PUBLIC WORKS OFFICE EXPANSION PROJECT**

***Action:** Rejected the Bid Received on July 11, 2002 For the Public Works Office Expansion Project.*

8) **PUBLIC WORKS MAINTENANCE CONTRACT FOR REPAIR AND MAINTENANCE OF TELEMETRY SYSTEM**

***Action:** Authorized the City Manager to Execute Contract with Telekey SCADA Systems, Inc., subject to City Attorney Review and Approval.*

9) **AMEND PROFESSIONAL SERVICES CONTRACT FOR DESIGN OF TENNANT AVENUE WIDENING**

***Action:** Approved Professional Service Agreement Time Extension; Approved the Additional Scope of Work From MH Engineering in the Amount of \$8,610; and Authorized the City Manager to Execute an Amendment to the Existing Professional Services Agreement for Design Services for the Tennant Avenue Widening Project, With the Total Amended Professional Services Agreement not to Exceed \$42,410.*

10) **COMMUNITY AND CULTURAL CENTER PROJECT JULY CONSTRUCTION PROGRESS REPORT**

Council Member Sellers asked if the project is expected to be completed in time for the planned Grand Opening Celebration.

Director of Public Works Ashcraft responded that, while there are things that are out of the control of Public Works, it is his belief that the project will be completed on time.

Project Manager Ritter stated that the current date of completion is projected to be November 2, but that it could be as much as 3 weeks later; although DPR is working hard to reduce that three week delay. He stated that he definitely expects them to be completed by the end of November. He stated that the Playhouse will not be completed until December 4.

Mayor Kennedy thanked the Public Works staff for their work on this project and noted that he is constantly receiving compliments from citizens who are pleased with the speed of the project.

***Action:** Information Only.*

11) **JULY 2002 FINANCE AND INVESTMENT REPORT**

***Action:** Accepted and Filed Report.*

12) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF JULY 30, 2002**

13) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST 2, 2002**

14) **APPROVED SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST**

7, 2002

City Council and Redevelopment Agency Action

15) APPROVED SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 31, 2002

City Council Action

16) REJECTION OF BIDS FOR WELL ABANDONMENT PROJECT

Council Member Chang recused herself from voting on this item due to a property conflict.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the Council, on a 4-0 vote, with Council Member Chang recusing herself, **Rejected** the Single Bid Received on July 31, 2002 for the Well Abandonment Project and Authorize Staff to Rebid the Project.*

17) ACCEPTANCE OF DONATIONS FOR GALVAN PARK BASEBALL FIELD IMPROVEMENTS

Action: ***Accepted** Donation by Silicon Valley Baseball of Improvements For the Galvan Park Baseball Field; and **Presented** a Certificate of Appreciation Acknowledging the Donation.*

Deputy Director of Public Works Struve introduced Dave McPherson of Silicon Valley Baseball, whose team has been playing on the Galvan Park baseball field for two seasons. This organization has provided the improvements to the field during this summer at a cost of approximately \$5,700.

Mayor Kennedy presented Mr. McPherson with a Certificate of Recognition for the donation of the improvements to the field, and thanked him for this work.

Mr. McPherson responded by thanking the staff for working with them on this project to make it a success, and stated that he hoped to continue working with the City on improvements over the coming year. He thanked the City for providing a place to play the game.

PUBLIC HEARINGS:

18) ANNEXATION APPLICATION ANX-00-02: COCHRANE-LUPINE

Director of Community Development Bischoff presented the staff report. This application is a request to annex two parcels totaling 55 acres in size (46 ac. and 9 ac. each) into the City of Morgan Hill. The properties are located at the southeast corner of Cochrane Road and Peet Road.

The 55-acre site is currently surrounded on three sides by the City of Morgan Hill. Therefore, inclusion of the parcels into the City limits would represent a logical adjustment of the City's boundary. In addition, under the terms of the 1984 Cochrane Road Assessment District (CRAD)

court judgement, the City agreed to accept and process, to an approval, applications for annexation and prezone within the CRAD area. The subject site is located within the City's Urban Service Boundary, and in February 2001, was prezoned R-1 (12,000) Single-family Low Density Residential. Existing water and sewer lines are available within the site vicinity, and are of sufficient size to service future development of the site. The subject site is also within the established response time standard for fire service. Considering the proposed annexation represents a logical adjustment of the City's boundary, and City infrastructure and services to the area are available, staff supports the annexation.

On December 12, 2000, the Commission voted unanimously (7-0) to recommend approval of the annexation. The annexation was not forwarded to the Council until the annexation map and legal description was certified by the County Surveyor's Office and County Assessor's Office, and until all code violations had been removed. Since that time, certification of the map and legal description was received by the City, and all identified code violations have been remedied. The applicant has also entered into a Pre-Annexation Agreement with the City.

Mayor Kennedy opened the public hearing.

Mr. Dick Oliver, representing Lupine investors, introduced himself and told the Council he was available to answer any questions.

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the Council unanimously (5-0) **Adopted** Resolution No. 5608, For Annexation.*

19) APPEAL OF SUBDIVISION APPLICATION SD 01-04: McLAUGHLIN-JONES

Action: *Due to withdrawal of appeal request by applicant, this item was dropped from the agenda. No action was taken.*

20) DEVELOPMENT AGREEMENT AMENDMENT DA 02-03: HALE-GLENROCK/SHEA

Director of Community Development Bischoff presented the staff report. The applicant is requesting approval of development agreement that will cover the development commitments for an 11-lot portion of the 68-acre Capriano development located on the south side of Tilton Ave., east of Hale Ave. and west of Monterey Rd.

In May 2002, the Planning Commission awarded 11 allocations for FY 2003-2004 which will be the beginning of Phase IV of the project. Phase IV will cover a 3.25 acre area within the overall 68-acre project site.

In accordance with established City Council policy, all residential projects awarded building allotments through the Residential Development Control System must secure City Council approval of a Development Agreement. The purpose of this agreement is: to secure commitments made during the Residential Development Control System process, and to establish a development schedule and mechanism for monitoring project success. Special attention is directed to Paragraph 14 of the Agreement which addresses the developer commitments made during the 2001 Residential

Development Control System process. Exhibit "B" of the agreement sets forth the due dates for actions prior to construction.

This application was reviewed by the Planning Commission at its July 30, 2002, meeting. The Commission voted 6-1, approving the request. The Planning Commission staff report and minutes are attached for the Council's reference.

Mayor Kennedy opened the public hearing.

No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers, seconded by Council Member Tate, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance 1582, New Series.*

Action: *On a motion by Council Member Sellers, seconded by Council Member Tate, the City Council **Introduced** Ordinance 1582, New Series by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING OF A DEVELOPMENT AGREEMENT, DA-02-03: HALE-GLENROCK/SHEA FOR APPLICATION MP 01-04: TILTON-GLENROCK (APN's 764-09-026 & 027) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None .*

21) DEVELOPMENT IMPACT FEE ADJUSTMENTS

Director of Finance Dilles presented the staff report. On May 22, staff and the City's consultant, Maximus, presented proposed changes to development impact fees for General Government Facilities, Libraries, Traffic, Police, Fire, Parks, Local Drainage, Sewer, and Water. Staff recommends that new fees for Community & Recreation Centers and for Open Space not be adopted at this time and that staff return within one year with more detailed information concerning how to fund the Sports Complex (Sports Fields). It is also recommended that the Library fee not be updated at this time, pending the outcome of the City's Prop. 14 grant application.

On June 26, 2002, the City Council opened a public hearing on proposed fee adjustments and continued the public hearing on development impact fees until July 17; at which time, the public hearing was again continued until August 21. In response to City Council direction, Exhibit A to the Resolution was amended to reflect adjustment of fees evenly over a 3 year period. Staff recommends that the first adjustments be implemented as of 1/15/03. Since the phase-in approach is now proposed, staff has deleted the previous recommendation to allow prepayments.

Staff has reviewed the City Council's direction to return with information regarding "locking in home builder projects at the vesting tentative map or something that could work better (flexibility), payable at occupancy." Past and planned development agreements for residential projects processed through Measure P include the following: "The City shall be entitled to impose development fees and apply building standards which are in effect at the time the building permits are actually issued rather than those effective as of the date of the agreement." Therefore, this contract language establishes fees when building permits are issued; and fees are paid at occupancy. The effect of this

language is to reduce fees collected under any option by an estimated \$1.5 million. The City's estimated cost, in fees otherwise collected, for implementing adjustments under varying assumptions would be *one* of the following options:

- 1) Implement new fees 1/15/03, with no developer assistance: \$1.5 million *or*
- 2) Residential & commercial prepayments with no phase-in: \$5.4 million *or*
- 3) (*Recommended*) 3 year phase-in for commercial & residential with no prepayments: \$4.1 million *or*
- 4) 3 year phase-in with residential & commercial prepayments by 1/6/03: \$4.6 million

In addition, in response to Council direction, staff recommends that the City allow applicants to pay existing fees for sewer & traffic impact fees for shell buildings, "finaled" as of 1/6/03, when the improvements are installed, if installed prior to June 2004. This action could cost the City \$1 million more in lost fees.

As proposed, the total impact fees for a single family home would increase by 54% from \$13,550 to \$20,846. An additional \$600 increase for the 3.8% January 2003 engineering cost index adjustment would bring the total to \$21,446, as shown on Exhibit A. Included in the agenda packet are two consultant reports concerning fees and an Ordinance changing the timing of the engineering cost index adjustment from each July to each January.

The amount to be collected from future development, as projected until build out, for the 8 impact fees with adjustments would be nearly \$195 million. However, this amount could be reduced by as much as \$6.4 million, if all eligible projects took advantage of potential payment options. This shortfall would need to be picked up by other funding sources and could not be charged to future development.

Mr. Dilles presented the Council with a chart showing a comparison of Morgan Hill's proposed fees to Gilroy's recently adopted fee structure. He noted that Morgan Hill's fees are still significantly lower than the fees being charged by the City of Gilroy.

He reviewed an Impact Fee Revenue Chart, and noted that the calculated losses displayed are estimates, but since he did not want to understate the potential loss, they are maximum estimates. He stated that he believed the worst case loss to the city would be 6.4 million dollars.

Director of Community Development Bischoff displayed a chart that displayed a typical residential development time line to give the Council an overall sense of the sequence of events and the amount of time required; though individual projects would vary somewhat. He stated that from start to finish the time is two to two and one-half years. If fees are fixed at the time of vesting tentative map at around 11 months, versus at the time of issuance of building permits at around 24 months, this would cause revenue to decrease by about 13 months worth of increases.

Council Member Sellers asked what difference this would make in a per unit cost.

Finance Director Dilles stated that he estimated that the first year increase would be \$1,764 plus \$581 inflationary effect, for a total of about \$2,300 per unit. This inflationary increase occurs each year, but would be changed from a fiscal year to a calendar year. This would not change the index, but it would be applied at a different time of year.

Mayor Kennedy opened the public hearing.

Mr. Chris Carrigan, representing the Tharaldson Family Development Company, expressed appreciation and thanks to staff for their courtesy and professionalism. He stated he strongly supports the option of a 3 year phase-in and pre-payment option, as that is the easiest for the staff to administer. He stated he wants to make it easy on staff and support this option. His clients would not oppose this fee as long as council continues in the direction they have taken. Stated he feels staff report accurately clarified this issue; and the losses that have occurred because it was not implemented in January, can be regained over time. Since this is only about 3 percent of the overall fee, it is not a significant hit.

Mr. Carrigan stated that because of the economic slow down, he does not believe the community is going to be developing a lot of new projects in the near future, but feels the phase-in will serve to help with the economic "pump priming process". He strongly urged the Council to adopt both the three year phase in and the pre-payment option.

Mr. Bill Schworer, Project Manager of Pacific Union Homes, stated he felt that the staff presentation was a fine one, but that Pacific Union Homes would like to have an allowance for pre-payment. Because the market is slow, and they cannot build houses until they are able to sell them in this slow market, would like to see the Council enact a phase in, but feels that there should be provision for grandfathering and pre-payment of fees.

Ms. Sunday Minnich, representing the Morgan Hill Chamber of Commerce, stated that staff has been very helpful in assisting them in understanding the study and being available to answer questions. Thanked the Council and staff for being so thoughtful in the process during the down economy. As a result of Chamber of Commerce meetings with the commercial and industrial developers in Morgan Hill, the Chamber supports a phase in effective in January for the next three years, and also an 18-month extension for the existing shell buildings with fees payable upon occupancy. She also stated they support the home builders in Morgan Hill and their recommendations submitted to the Council by letter.

Mr. Rocke Garcia, local developer, commented on the time line scenario presented by Mr. Bischoff. Stated he would like to see fees set at the vested tentative map stage to avoid confusion because fees could potentially be different for each building permit that is pulled because they can be pulled at different times. Stated that he feels that it would be easier for the builder because it would set the fee.

Ms. Jennifer Cloonan, representing the Homebuilders Association of Northern California. Stated she appreciated the efforts of staff to respond to the concerns of the homebuilding community regarding how these fee increases will affect builders and home buyers. Stated support of staff recommendation of phasing in the proposed increases over a three year period. Also grandfathering previously allocated, but not yet built units, would also be appreciated. Also requested that the

Council support the preference of Morgan Hill homebuilders to have their fees locked in at vested tentative map approval, and to pay the fees upon occupancy of the unit. Stated she feels that loss of revenue in the staff report is exaggerated. Stated that homebuilders are ready and willing to pay their fair share for the future infrastructure needs, even if it means increases.

Mr. Dick Oliver, developer, stated he felt the \$1.5 million loss back to January 2002 is artificial because it cannot be retroactively be imposed. He stated that staff report suggests that there be a 3.8% increase in the fee as of January 15, 2003, and he does not understand the logic of this increase by this percentage on the very day the fee is increased, and felt that this may be a double dipping of some kind; but is not sure quite why that is. Stated his support for setting the fee at the vesting of tentative map and the three year phase-in to lessen the burden on his current project.

Ms. Carolyn Hipp, representing Warmington Homes, spoke in reference of Morgan Lane project. Asked the Council to support the phase-in of fees, which seems to benefit both public and private entities. In addition, encouraged lock in of fees at vesting of tentative map, and this seems a logical and appropriate point of timing to impose a fee. Also requested the option to pre-pay fees if a developer would so choose.

No further comments being offered, the public hearing was closed.

Council Member Chang asked what is the timing of other cities in Santa Clara County as to charging at tentative map stage or at the building permit time.

Mr. Dilles stated that he only has certainty about the city of Gilroy, and that they have adopted resolution with a new fee schedule which contains the following two exceptions: 1) commercial and industrial projects for which complete building and off site plans had been submitted and deemed complete by the city; and 2) for residential projects for which complete off site plans and a final map have been submitted and deemed complete by the city. Stated that the final map comes later than the tentative map; normally four to six months in advance of building permits. This resolution appears to set the fees but does not address the timing of payment.

City Manager Tewes stated that unless a project is developed pursuant to a development agreement, the typical case is that fees are locked in when the application for a vested tentative map has been submitted. However, in communities such as Morgan Hill, where development agreements are the norm, then the community has the right to establish a different date. So the norm is at the vesting tentative map stage for other communities, but the norm in Morgan Hill has been that the calculation of the fee be more closely associated with the actual development of the unit since the impact created by the unit comes later. This assures that when the impact arrives that the fee is established at a rate closest to matching the mitigation measures needed for those impacts. Stated that the Council does have the authority to change it if they wish. The economic impact would be best demonstrated by the chart shown earlier by Mr. Bischoff. If a line were drawn right in the middle of that time line, which would be about January when the rates would change; and to the left of that line would be the vesting tentative map stage, and to the right would be an extra \$2,500 dollars per unit, which is more than can be earned on a pre-paid amount.

Council Member Sellers asked if the issue is not really financial so much as making it a cleaner and clearer process, so what would change if we went to the vested tentative map stage for setting the

fees?

Mr. Tewes responded that developers are seeking the most clarity at the earliest stage of the process. Under the proposed program, there is clarity into the future for the first three years by adoption of a schedule that specifies the fees applicable in each succeeding period. The potential uncertainty in the future is the extent to which the cost of construction index will change, but that is an acceptable level of risk. Uncertainty arises in that every 5 to 7 years the City will do a comprehensive review and determine if the construction cost indexes actually did reflect the actual cost increase of land and construction.

Mayor Kennedy asked if fees are typically paid in other communities at the time of vesting tentative map stage.

Mr. Tewes responded that State law governs this, and fees are paid at the time of occupancy for residential. Council can establish appropriate rules for payment by commercial and industrial projects. The City wants to make sure that the impact of new development is matched to when the fees are paid; but tonight the Council has seen proposals to make that gap wider.

Council Member Carr stated that if he heard correctly, the issue about the tentative map is not one about the dollar amount, but about the simplicity and having all the fees the same. That if permits are pulled at different times for units in a project, they could have different fees charged, and make it difficult to keep track of which unit had how much fee. Stated that if fees were locked in at vested tentative map than every unit on that map would have the same exact fee; but if the fees are locked in at the time permits are pulled, then each permit that is pulled could have a different fee. Can a structure be developed that the fee is closer to time of occupancy so fee is close to time of impact, but that the fee is consistent for each unit.

Mr. Tewes responded that it is up to the Council to determine when they wanted to establish and lock in the fees.

Council Member Chang stated that her overall concern is the loss of \$1.3 million. She agreed with Council Member Carr's suggestion, but stated the City needs to make up the loss of these funds. She stated that she would like to adjust fees accordingly so there is not a loss of \$1.3 if the Council agrees to go with the vested tentative map stage for fees.

Council Member Tate agreed with Council Member Chang, but stated he is able to see both sides of this issue, where the developer wants to know his costs. Stated he does not necessarily agree that the developer could not plan so that the costs would not be inconsistent.

Mayor Kennedy raised the prepayment issue and asked, if the developer were given the option to prepay for all of their units at the time of vesting map, would the time value of money make up for the lower rate?

Mr. Tewes responded that the rate of return would be 3% versus 21% rate of increase in the next year would not be a good return. He stated that he would be very surprised if a developer prepaid residential fees at the vesting tentative map; because most developers don't receive their financing until the final map stage.

Mr. Dilles explained that the \$1 million for shell buildings is not included in any of the four options presented by staff in the report, and that it should be added on to any one of these scenarios. He also explained that the 3.8 percent increase in January 2003 reflects the switch from fiscal year to calendar year application of inflationary index, changing it from July to January; and is actually being applied 6 months later than it would have been applied in the past.

Council Member Tate stated that he is not in favor of pre-payment option, and is in favor of phasing. On the question of the vested tentative map versus final pulling of permits, though he could argue on both sides of that issues, but felt that Mr. Garcia made a good point when he demonstrated the time line and showed how much time is spent on paperwork aspects of a project. He agreed that \$1.3 million is a lot of money to give up, but that is the worst case; and felt that he could favor doing it at the tentative map stage to give the developer something firm that can be planned on.

Council Member Tate made a motion to adopt staff's Option 3 without the pre-payment option, applied to residential development only, and with the establishment of fees at the vested tentative map stage.

Council Member Sellers seconded that motion, stating that the \$1.3 million would only be about two-thirds of a percent of what will be collected over the course of this agreement, and that would be the worst case scenario.

Mr. Dilles asked for clarification on whether to apply the engineering cost index each year in January.

Council directed staff to apply the engineering cost index each year as it comes due in January. That this is an expense the developer can easily build into his planning.

Council asked the Acting City Attorney for clarification on whether the motion applied to the resolution or the ordinance.

Acting City Attorney Sloan stated that the motion applies to resolution.

City Manager Tewes further clarified that the motion would have the effect of adopting the rates listed in the resolution; and also directing staff to prepare a change to the Municipal Code to adopt the establishment of fees at the vested tentative map stage of the process.

Council Member Carr stated that he is still concerned about the prepayment option. He stated that because of the time period between application for Measure P and the time the project starts to build there are projects in the pipeline now that may result in many extensions to projects being brought before the Council. Would like to see those developers who want to pre-pay given the option so they can rely on their original business assumptions.

Council Member Chang questioned why a builder would want to pay now, when they can keep the funds to earn interest and pay later, after locking the cost at vested tentative map. Stated that this would benefit the developer more than the city, and again expressed her concern at the loss of the \$1.3 million. Stated that there is no other place to obtain these funds, and she is very concerned about the loss. She is willing to compromise and allow for pre-payment if that would help with this

problem.

Council Member Sellers called for the question.

Action: *On a motion by Council Member Tate, and seconded by Council Member Sellers, the Council voted 4-0-1, with Council Member Chang abstaining, to adopt staff recommendation number 3, applied to residential development only, without a pre-payment option, and with establishment of fees at the vested tentative map stage.*

Action: *On a motion by Council Member Tate, seconded by Council Member Carr, the City Council unanimously (5-0) approved the motion to adopt the staff recommended action regarding shell buildings to allow applicants to pay existing fees for sewer and traffic impact fees for shell buildings, finalized as of January 6, 2003, when the improvements are installed, if installed prior to June 2004.*

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance 1581, New Series.*

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the City Council **Introduced** Ordinance 1581, New Series by Title Only as follows: an Ordinance of the City Council of the City of Morgan Hill Amending Sections 3.56.050 of Chapter 3.56 (Development Impact Mitigation Fees) of Title 3 (Revenue and Finance) of the Municipal Code of the City of Morgan Hill Regarding Development Impact Mitigation Fees by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None .*

Acting City Attorney Sloan pointed out to the Council that Section 4A of the resolution addresses phasing, and Section 4B addresses the shell building issue. She stated she and the City Manager wanted to point out that there is a small pre-payment allotment for those applicants who have been awarded Measure P allocations.

City Manager Tewes clarified that Section 4A deals with only a very small sub-set of the issues the Council has been debating this evening. This applies to only those projects which have already received Measure P allocations by a certain date. The debate this evening has dealt with the question of extending the pre-payment option into the future. This resolution reflects prior Council direction to allow pre-payment for this small sub-set. If they receive extensions, then they would be required to pay at the building permit stage. He stated that he assumes that there will be direction to the staff to come back with amendments to the Municipal Code.

Mayor Kennedy responded in the affirmative.

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the Council unanimously (5-0) **Adopted** Resolution No. 5592.*

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the Council unanimously (5-0) **Directed** Staff to Return to City Council Within One Year*

Concerning the Library Impact Fee and Options to Fund the Sports Complex (Sports Fields).

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the Council unanimously (5-0) **Directed** Staff to Return to City Council by January 2007 to Begin New Review of Impact Fees.*

Action: *On a motion by Council Member Tate, seconded by Council Member Sellers, the Council unanimously (5-0) **Directed** Staff to Return to City Council with amendments to the Municipal Code to implement Council direction determined this evening on the setting and collection of impact fees.*

City Council Action

OTHER BUSINESS

22) REQUEST TO FUND A STUDY TO IDENTIFY THE CITY'S NATURAL RESOURCES AND TO RECOMMEND PRESERVATION METHODS

Recreation Manager Spier presented the staff report. At the June 18, 2001 meeting of the Parks and Recreation Commission (PRC) a presentation on preserving local natural resources by Mark Grzan and Commissioner Puder was received. The PRC referred this item to the Bicycle Advisory Committee (BAC) for consideration of trails within the scope of the committee and to consider the need for funding a natural resources study; explore impact and revisions within the Measure P process which may address natural resource issues; for recommendation back to the PRC.

In July 2001, the BAC agreed to change their scope and expand their name to Bicycle and Trails Advisory Committee (BTAC). The BTAC scope now includes trails and natural resources. The BTAC participated in a field trip led by Mark Grzan and Commissioner Puder and discussed a scope of study. In Sept. 2001 the BTAC approved a scope of work for a "Trails and Natural Resources Study" attached memo. This item was discussed at the Nov. 20, 2001 meeting of the PRC. The PRC had some issues for the BTAC to consider. At the January 29, 2002 PRC meeting they agreed with the BTAC's scope and recommended a study to Council to determine types of appropriate use of trails; design guidelines for trails; and to provide a mechanism by which developers can/should contribute to trails. The study does not include natural resources such as flora and fauna issues. In February 2002, staff was faced with a 5% budget reduction and determined that this item would be brought before Council after the budget discussions were complete.

The recommendations are based on the BAC's Bikeways Master Plan. The following findings support the study: A. The City should focus its recreation resources on providing active recreational facilities, along with projects that preserve scenic resources and improve trail access within the community. B. A system of walking and bicycling trails is desired by the community, especially along the City's creeks and drainage channels. C. Recommendation to enhance partnerships with the Santa Clara Valley Water District to develop trails and linear parks along existing creeks and drainage channels. Recommended trails are included in the Draft Bikeways Master Plan. D. Goal is to include a comprehensive and coordinated system of bicycle paths, lanes and routes that serve

as a safe and viable transportation and recreational network connecting neighborhoods, schools, parks and recreation facilities, work places, the library, civic center and other community facilities, and regional trails.

Based on these recommendations, potential funding sources, and compatibility of bicycles and trails; staff is requesting that Council consider the need for supporting a natural resources (creeks and trails) study and to explore revisions within the Measure P process which may address natural resource issues.

Funding of \$20,000 for this study is not budgeted. Staff, if directed, could explore funding alternatives such as grants and report back to Council.

Mayor Kennedy stated that he has been riding his bike on the Coyote Creek trail, and sees a lot of disconnects in the trails; and that he would like to have the trails connect so that riders can get from the Coyote Creek Bikepath to downtown. He stated he was strongly in support of this study and would like to expand it to include signage similar to what Council Member Tate put together to welcome and direct bikers and pedestrians to the downtown area.

Council Member Carr agreed and stated that there are dollars to be found. Suggested that perhaps Valley Transit Authority and the Water District dollars can be used in partnership to get this done. He stated that in the future this type of item should be included in the budget discussion.

Council Member Tate stated that a partnership with the Water District to develop the trails and linear paths along existing paths and creeks was part of the bond measure that was passed last year or the year before. He stated that the funds are there, and the Water District staff is interested in pursuing this issue. He also stated he would be interested in participating.

Mayor Kennedy requested that the Bicycle and Trails Committee study the weaknesses in the bike paths, such as narrow areas where city trails are connected to county roads for short distances. Suggested that perhaps those areas could be widened to make it safer.

All Council Members affirmed their support for this item.

Action: **Provided** *Direction to Staff on Funding Sources for a Study to Complement the Bikeways Master Plan.*

Action: **Provided** *Comments to the Scope of the Proposed Study.*

23) COMMUNITY CENTER AND PLAYHOUSE RENTAL FEES AND SCHEDULING PRIORITIES

Recreation Manager Spier presented the staff report. At its July 31, 2002 meeting, City Council provided input to staff regarding various facility rental policies and fees. This information is being incorporated into various policies and procedures for the operation of these facilities. Council provided direction in four areas:

1. Community Access: to provide for renting the kitchen independently; long-term rental commitments for non-prime times only with prime time Friday evening after 5 p.m., all day Saturday

and Sunday.;

2. Discounts: proceed with rates as presented except to provide a wider range between technical and non-technical rehearsals;
3. Private Concessionaires and Caterers: continue to explore possibilities and maintain flexibility with a local vendor preference;
4. Scheduling Priority: proceed with proposed categories as presented.

Fees were developed with a philosophy that rental fees should recover a portion of the costs of operating the facilities. At the same time, it is staff's desire to establish fees which are not only based on cost recovery assumptions, but which also provide more affordable, reduced fees as an incentive for use of the Community and Cultural Center by local residents and groups. To do this, a graduated rate schedule has been developed where possible for each facility use. This schedule is attached to and incorporated in the Resolution as Exhibit A. Council and staff acknowledge the cost recovery goals are high and will provide a status report on a quarterly basis as directed at the Council meeting of July 31, 2002. Wherever possible, rental fees have been separated into the following four categories:

Category A: Official City use or City Sponsored Events are not charged.

Category B: Morgan Hill residents and organizations or businesses which are comprised of at least 60% Morgan Hill Residents receive a 20% discount from market rate.

Category C: Morgan Hill non-profit (501c3) organizations receive a special non-profit rate.

Category D: All others are charged a market rate.

It is staff's intention to begin accepting reservations for the 2003 year on September 3, 2002 and to market the facility at the Taste of Morgan Hill event in late September.

Fiscal Impact: Rental rates are based on revised budget projections reviewed by Council during the budget workshops and reflect cost recovery assumptions.

Recreation Manager Spier distributed a comparison chart of rental rates for various agencies' facilities, and reported that Morgan Hill's rates are comparable or lower than others. She noted that the names for the Community and Cultural Center rooms which she used in this chart are not finalized, but only there for easier reference.

Action: *On a motion by Council Member Sellers, seconded by Council Member Tate, the Council unanimously (5-0) **Adopted** Resolution No. 5609 Establishing Community Center and Playhouse Facility Rental Fees and Scheduling Priorities.*

24) ADOPT ORDINANCE NO. 1571, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1571, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Amending Chapter 3.54 (Recreation Fees) of Title 3 (Revenue and Finance) of the Municipal Code of the City of Morgan Hill Regarding Fees for Recreation Services, Including Classes, Facilities and Administrative Processing Fees by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

25) ADOPT ORDINANCE NO. 1572, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1572, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Zoning Amendment and the Approval of a Precise Development Plan for the Capriano/Madrone Crossing Development. The Residential Development Plan Is on a 68 Acre Site Located on the West Side of Monterey Road, South Side of Tilton Avenue, on the East Side of Hale Avenue (APN's 764-09-005, 006, 007, 008, 009, 010 & 014) (Application ZA-00-05: Hale-Glenrock Builders/Shea Homes) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES; None; ABSTAIN: None; ABSENT: None.*

26) ADOPT ORDINANCE NO. 1573, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1573, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Zoning Amendment to Establish a New Precise Development Plan for the 98 Acre Mission Ranch Development Located on the South Side of Cochrane Road and East of Mission View Drive in the R-1 (7,000)/RPD Zoning District. (APN's 728-32-001, 002, 003 and 728-33-001). by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES; None; ABSTAIN: None; ABSENT: None.*

27) ADOPT ORDINANCE NO. 1574, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1574, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Zoning Amendment to Establish a New Precise Development Plan for Approximately 18-acres on the West Side of Peet Road from R-1 (9,000) to R-1 12,000 RPD and Incorporating the Area with the Adjoining Coyote Estates Development, Located on the North Side of Cochrane Road and West Side of Peet Road. (APN's 728-35-008, 9 & 10; 728-36-001 & 10) ZA-01-15: Cochrane-coyote Estates by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES; None; ABSTAIN: None; ABSENT: None.*

28) ADOPT ORDINANCE NO. 1575, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1575, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Amending the Standards and Criteria and Procedures of the Residential Development Control System as Set Forth in Chapter 18.78 of the Morgan Hill Municipal Code by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

29) ADOPT ORDINANCE NO. 1576, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1576, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to Ordinance No. 1542, New Series, to Amend the Development Agreement for Application MP-00-02: E. Dunne - Grewal to Allow for a Nine-month Extension of Time (APN 728-11-026) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: Chang; ABSENT: None.*

30) ADOPT ORDINANCE NO. 1577, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1577, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Pre-zoning 16 Acres, Located on the East Side of Peet Road - Between Cochrane Road and Half Road from County A-20S to City R-1(20,000). (APN's 728-34-006 & 007) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

31) ADOPT ORDINANCE NO. 1578, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1578, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to Ordinance No. 1464, New Series, to Amend the Development Agreement for Application MP-00-18: Central - Central Park to Allow for a Two-month Extension of Time (APN 726-27-105) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

32) ADOPT ORDINANCE NO. 1579, NEW SERIES

Action: *On a motion by Council Member Tate, and Seconded by Council Member Sellers, the City Council **Adopted** Ordinance No. 1579, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amended Development Agreement for Phases V & VI of the Mission Ranch Project, Applications MP 00-21 & MP 01-03: Mission View-Dividend (APN's 728-32-001, 002, 003 & 728-33-001) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

ADJOURNED TO CLOSED SESSION

Mayor Kennedy adjourned the meeting to closed session at 9:40 p.m.

RECONVENE FROM CLOSED SESSION

Mayor Kennedy reconvened the meeting at 10:39 p.m.

City Manager Tewes reported the appointment of Mayor Kennedy and Council Member Carr to a Compensation Sub-committee.

ADJOURNMENT

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 10:40 p.m.

MINUTES RECORDED AND PREPARED BY

MOIRA MALONE, Deputy City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: September 4, 2002

DEVELOPMENT AGREEMENT DA 02-02: COCHRANE-COYOTE ESTATES

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY:

The applicant is requesting approval of a development agreement that will cover the development commitments for a 6-lot portion of the 70-acre Coyote Estates development located on the west side of Peet Rd., north of Cochrane Rd.

In May 2002, the Planning Commission awarded 6 allocations for FY 2003-2004 which will be the beginning of Phase VII of the project. Phases VII is expected to have 24 units.

In accordance with established City Council policy, all residential projects awarded building allotments through the Residential Development Control System must secure City Council approval of a Development Agreement. The purpose of this agreement is to secure commitments made during the Residential Development Control System process, and to establish a development schedule and mechanism for monitoring project success. Special attention is directed to Paragraph 14 of the Agreement which addresses the developer commitments made during the 2001 Residential Development Control System process. Exhibit "B" of the agreement sets forth the due dates for actions prior to construction.

This application was reviewed by the Planning Commission at its August 13, 2002, meeting. The Commission voted 6-0, approving the request, with one Commissioner absent. The Planning Commission staff report and minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 11

Prepared By:

Assistant Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager

ORDINANCE NO. 1583, NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING A DEVELOPMENT
AGREEMENT, DA-02-02: COCHRANE-COYOTE ESTATES
FOR APPLICATION MP 01-02: COCHRANE-COYOTE
ESTATES (APN 728-43-020)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. Pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, 6 building allotments were awarded to application MP 01-02: Cochrane-Coyote Estates for fiscal year 2003-2004; and

<u>Project</u>	<u>Total Dwelling Units</u>
MP 01-02: Cochrane-Coyote Estates	6 building allotments

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30)

days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 4th Day of September, 2002 and was finally adopted at a regular meeting of said Council on the 18th Day of September, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

☪ CERTIFICATE OF THE CITY CLERK ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1583, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th Day of September, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 4, 2002*

ZONING AMENDMENT APPLICATION, ZA-01-23: COCHRANE - IN-N-OUT BURGER

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Adopt Resolution Denying Zoning Amendment (ZA) Application

OR

- 2a. Approve Mitigated Negative Declaration
- 3a. Waive the First and Second Reading of ZA Ordinance
- 4a. Introduce ZA Ordinance (roll call vote)

EXECUTIVE SUMMARY: The applicant is requesting to amend the precise development plan for the planned unit development (PUD) located at the northwest quadrant of Cochrane Rd and Hwy 101 to: 1) allow for a 3,253-sf drive-thru, fast food restaurant with 300 sf patio seating, and 2) redesign the site layout of an adjacent parcel to accommodate an approximate 5,096-sf sit-down restaurant with 600 sf outdoor seating. The PUD is currently approved for a 6,300 sf sit-down restaurant on the proposed fast food restaurant site and a 8,000-sf sit-down restaurant on the adjacent parcel (a copy of the existing precise development plan is attached for Council's reference).

On July 9, 2002, the Planning Commission reviewed the PUD amendment request. The Commission expressed concern regarding the proposed site plan and building design, requested the applicant to revise his plans, and continued the item to the July 30 special Commission meeting. The Commission reviewed the revised plans, and by a vote of 6-1, recommended approval of the PUD amendment and adoption of the precise development plan with modifications (a copy of the July 30 Commission staff report and minutes are attached for Council's reference).

Staff is supportive of In-N-Out Burger locating within the City of Morgan Hill. However, Staff does not feel that the proposed site is appropriate for the proposed use, as the project site is a designated gateway location and on-site circulation is problematic (please refer to the attached supplemental staff report for a detailed discussion). Therefore, although the Commission recommended approval of the project, Staff recommends that the Council not approve the zoning amendment request and precise development plan. A resolution of denial is attached. Should the Council choose to approve the application, an approval ordinance is also attached including a list of conditions of approval requiring adherence to the standards of the PUD Ordinance. The applicant desires to deviate from two of the PUD standards, including the provision of a minimum width for all landscaped areas of 10 ft and 50 percent perimeter landscaping adjacent to the building. Should the Council choose to approve the project with the deviations, the Council would need to make the required findings which are outlined in the attached July 30 Commission staff report. An approval Ordinance incorporating the required findings to allow for deviation from the ordinance would be provided at the next Council meeting.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Agenda Item # 12

Prepared By:

Associate Planner

Approved By:

**Community
Development Director**

Submitted By:

City Manager



MEMORANDUM

To: CITY COUNCIL

Date: September 4, 2002

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: SUPPLEMENTAL STAFF REPORT FOR ZONING AMENDMENT APPLICATION, ZA-01-23: COCHRANE - IN-N-OUT BURGER

This memorandum is intended to supplement the City Council staff report, providing additional information regarding staff concerns. For a more detailed discussion of the overall project, please refer to the July 30 Commission staff report (attached for Council's reference).

BACKGROUND:

On May 10, 2000, the City Council approved a zoning amendment application to rezone the northwest quadrant of Highway 101 from Highway Commercial to Planned Unit Development (PUD) and to establish a precise development plan for the site. The precise development plan calls out for two hotels, a gas station/convenience market/car wash, and two sit-down restaurants (6,300 sf and 8,000 sf in size). The PUD area is currently built out with the exception of the two restaurant pads. The applicant is requesting to amend the PUD to allow a fast-food restaurant to be constructed on the site approved for a 6,300 sf sit-down restaurant and to reduce the size of the other sit-down restaurant from 8,000 sf to 5,100 sf with approximately 600 sf of outdoor seating.

PROJECT ASSESSMENT:

Access to the project site is provided via an existing right-turn ingress only driveway off Cochrane Road and a 25-ft drive aisle (Road A) off Madrone Parkway. The fast food building is proposed to be located toward the southern portion of the site, with the drive-thru entrance located at the northern end of the site. The drive-thru has capacity for 16 queued vehicles. Only 28 parking spaces will be provided on the In-N-Out Burger site. However, the applicant proposes to install 80 spaces on the adjacent site for the future sit-down restaurant, and utilize an existing reciprocal parking agreement. Based on the size of the fast food restaurant and the speculative restaurant building, the parking provided (108 spaces) meets the minimum parking code requirement (93 spaces) for both uses combined.

Gateway Location

The project site is located in a prime gateway location in the City of Morgan Hill. For freeway travelers heading southbound on Highway 101, the PUD is the first glimpse of Morgan Hill. As such, it is important that the uses within the PUD reflect a desirable image of the community. As currently proposed, Planning Staff feels that the building design has a franchise appearance (which is prohibited in the PUD), and the site plan and proposed use are not appropriate for a gateway location.

The General Plan defines gateways as, “...the key locations where people enter and leave the city or its distinct districts. They let people know they have left one place and come into another. As gateways convey a sense of arrival and provide initial and lasting impressions, they should be attractive and identifiable.” General Plan Policy 14a requires the following, “Enhance the visual integrity of the gateways to the city such as the Madrone area north of Cochrane Road, the Cochrane Road/Monterey Road intersection, Monterey Road south of Watsonville Road, the Cochrane, Dunne and Tennant freeway interchanges, and the railroad station.” Staff does not feel that a fast food use, particularly with a drive-thru component and queued vehicles, enhances the visual integrity of the gateway location.

Overall Site Circulation

The project is faced with a number of site planning and circulation issues. However, Staff is most concerned with misdirected egress flow created by the drive-thru configuration, as discussed below.

Misdirected egress flow. The drive-thru lane is designed such that vehicles enter from the north and exit at the south end of the site, facing Cochrane Road and the existing right-turn ingress only driveway. Because drive-thru customers will be facing the Cochrane Road driveway and because the driveway provides a direct route to Cochrane Road and Highway 101, customers exiting the drive-thru may knowingly or even unknowingly exit the site from the ingress only driveway. Other drivers, upon discovering the Cochrane Road driveway is ingress only, will most likely head towards the nearest exit, which is the gas station driveway. If that occurs, drivers exiting via the gas station driveway will be forced to travel northbound on Madrone Parkway and u-turn at the median break to access Cochrane Road. To address this concern, the Planning Commission recommended the following site plan modifications: 1) design the drive aisle located to the south of the building as one-way only (west to east direction), 2) angle the parking spaces along the one-way drive aisle, and 3) shift the building 10 to 15 feet to the south.

Site egress was designed to be provided via the 25-ft drive aisle (Road A) leading to Madrone Parkway. In order to facilitate proper traffic movements on-site, the drive-thru exit should face the direction of Road A. Per the recommendation of the traffic study, the applicant has channeled the drive-thru curb to force a left hand turn at the drive-thru exit to discourage drivers from exiting via the Cochrane Road ingress only driveway or the gas station site. However, even if drive-thru customers exit to the left as intended, these vehicles will have to traverse the full length of the fast food restaurant parking lot to access Road A. The interior parking circulation aisles are not designed to function as main drive aisles. Also, the parking lot will become more congested and chaotic, particularly during peak demand periods, if customers traverse the parking lot to exit the site while others are trying to park.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING A ZONING AMENDMENT REQUEST TO AMEND THE PRECISE DEVELOPMENT PLAN OF A PLANNED UNIT DEVELOPMENT TO REPLACE TWO SIT-DOWN RESTAURANTS (6,300 SF AND 8,000 SF IN SIZE) WITH A 3,253 SF DRIVE-THRU, FAST FOOD RESTAURANT AND AN APPROXIMATE 5,096 SF SIT-DOWN RESTAURANT (APNs 726-33-023 & -024)

WHEREAS, such request was considered by the City Council at their regular meeting of September 4, 2002, at which time the City Council denied zoning amendment application, ZA-01-23: Cochrane - In-N-Out Burger; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

- SECTION 1.** The proposed use is inconsistent with General Plan Policy 14a. A fast food use, including a drive-thru component with queued vehicles and designed and placed as proposed, would not enhance the visual integrity of the gateway location.
- SECTION 2.** The zoning amendment request is inconsistent with the approved precise development plan for the planned unit development (PUD). The approved PUD calls for the construction of two sit-down restaurants (6,300 sf and 8,000 sf in size).
- SECTION 3.** The proposed precise development plan has numerous site planning and circulation issues including the following: conflicting vehicular movements, misdirected egress traffic flow for drive-thru customers, poorly located trash enclosure, and insufficient landscaping.
- SECTION 4.** The proposed precise development plan is inconsistent with the city-wide PUD commercial development standards. On-site landscaping does not comply with the 10-ft minimum width requirement, and 50 percent of the building perimeter is not landscaped as required by the Morgan Hill Municipal Code.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 4th Day of September, 2002 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🍷 CERTIFICATION 🍷

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at the Regular Meeting on September 4, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO., NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT REQUEST TO AMEND THE PRECISE DEVELOPMENT PLAN OF A PLANNED UNIT DEVELOPMENT TO REPLACE TWO SIT-DOWN RESTAURANTS (6,300 SF AND 8,000 SF IN SIZE) WITH A 3,253 SF DRIVE-THRU, FAST FOOD RESTAURANT AND AN APPROXIMATE 5,096 SF SIT-DOWN RESTAURANT (APNs 726-33-023 & -024)/(ZA-01-23: COCHRANE - IN-N-OUT BURGER)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.
- SECTION 4.** The City Council finds that the proposed PUD is consistent with the criteria specified in Chapter 18.30 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves a precise development plan as contained in that certain series of documents dated July 24, 2002, on file in the Community Development Department, entitled "In-N-Out Burger Restaurant," prepared by In-N-Out Burger Architectural Department. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** Development of the revised precise development plan shall be subject to the Tharaldson PUD Guidelines as approved by Ordinance No. 1475, except as otherwise approved by the City Council.
- SECTION 7.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as Exhibit "B", and by this reference incorporated herein.

SECTION 8. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 9. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 4th Day of September, 2002 and was finally adopted at a regular meeting of said Council on the 18th Day of September, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🏛️ CERTIFICATE OF THE CITY CLERK 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th Day of September, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 4, 2002*

REVIEW OPTIONS FOR CORY LANE DUPLEX

RECOMMENDED ACTION: Review options for Cory Lane Duplex and direct staff on how to proceed.

EXECUTIVE SUMMARY: On July 31, 2002 the City Council considered a purchase order for the demolition of two buildings in the path of the Butterfield Boulevard Extension Project. The Council requested staff look at other options to preserve the Duplex currently located at 16627 Cory Lane.

Under the current Measure P exemption policy the duplex can not be moved to a new location within the City without going through the Measure P process. Allocations awarded this fiscal year would allow a developer to pull permits in April 2004. If the Council were to revise its exemption policy, it would be possible to move and rehab the duplex to an approved location prior to April 2004. It is important to note that a change in the exemption policy would not be limited to this one occurrence depending on the revision. Under this revision anyone may assemble existing exempt units from multiple sites in the city, demo those units and create a new subdivision development that would be exempt from Measure P. The Council established this policy to prevent developers from circumventing Measure P in this manner.

Should the Council be amendable to revising its Measure P exemption, we would still need to find a location before December so that the building could be moved by February 2003. The best placement for this home would be in a neighborhood with similarly designed homes. The City does not own any such property. Therefore, we would need to find an interested party who wants BMR rental units and owns vacant property that meets zoning requirements. The project could be funded through the RDA's Housing Rehab Loan Program if the owner would agree to rent the units to very low and low income tenants.

While relocating the home would be a desirable alternative to demolition, it does come with more risk and cost. It would provide two additional low income units, but with the style and building standards of the 1970's. Relocation would only be a true success if the right location is matched with the right property owner. We would not recommend giving the building to a third party unless it is moved out of the City or we have a specific development agreement. We also would not recommend converting the duplex to a single family home because of its odd configuration and potential for abuse. Assuming the Council is receptive to revising its exemption policy and wants to preserve the unit, we would proceed to find a site and negotiate a development agreement with an interested party. Should we be unable to negotiate a deal, Public Works will need to proceed with the demolition in January 2003 to avoid impacting the Butterfield Project.

FISCAL IMPACT: Staff estimates moving and rehabilitation costs to range between \$100,000 to \$150,000. Funds are available under the FY02-03 BAHS Housing Division Budget.

Agenda Item # 13

Prepared By:

**Housing Rehab
Coordinator**

Approved By:

Director of BAHS

Submitted By:

City Manager

MEMORANDUM

Date: August 20, 2002

To: Garrett Toy, Director of BAHS

From: Steve Pendleton, Housing Rehab Coordinator

RE: Cory Lane Duplex

Summary: There appears to be two real solutions for this building: 1) Relocation or 2) demolition of this building. Relocating the building would most likely delay the Butterfield roadway project due to Measure P requirements, site selection, plan development, permit processing and contractor selection. Demolition can be completed with over 90% of the building being recycled and most likely will not effect scheduling on the roadway project.

Measure P requirements: This duplex was moved onto the Cory Lane parcel in the 1980's under an exemption from the City's Residential Development Control System. At the time, developments of up to four units could be constructed outside of the growth management system. Under the current Measure P system the duplex is exempt and could be replaced with two new units on the same site. The Council's current exemption policy does not allow the transfer of exempt units from one lot to another.

To move the duplex to another site, the City Council would need to do one of the following:

1. Change its exemption policy to allow transfer of exempt units to another parcel; or
2. Direct staff to obtain a building allotment, under Measure P, from the micro projects or affordable projects set-aside.

The next available Measure P allocations are for fiscal year 2004-05. The filing deadline for the affordable competition is January 27, 2003. The deadline for the micro competition is February 3, 2003. Should a building allotment be awarded, a building permit to allow relocation of the duplex could be issued on April 1, 2004.

If the Council were to change its exemption policy, it would be possible to obtain a permit and move the duplex to an approved location. It is important to note that a change in the exemption policy would not be limited to this one occurrence depending on the revision. It would be possible thereafter for anyone to assemble existing exempt units from multiple sites in the city, demo those units and create a new subdivision development that would be exempt from Measure P. This policy was established to prevent developers from circumventing Measure P by the transfer of exempt units. However, staff could craft a policy to minimize potential abuse (e.g., limit exemptions to affordable housing).

Glenrock Builders have expressed an interest in this exemption. They have a BMR duplex to build but are short one allotment. They are requesting that if a change in the exemption policy is made they receive credit for one of the units being demolished. This would allow them to build the BMR

duplex (see attached letter from Rocke Garcia of Glenrock Builders).

Another option is to convert the building from a duplex to a single dwelling. If it's a single dwelling Measure P would not apply. This would make for a financially imfeasible BMR rental unit. Rent from one BMR unit would not be enough to offset the costs of construction and maintenance of the property. To make it a single unit, a wall and a kitchen will have to be removed. This can be done easily but it could also be replaced easily. Because this is a income type of building it would be reasonable to expect future owners to covert the building back to a duplex to establish more rental income. This would be hard to monitor to keep this action from happening.

Finding a location: Should we obtain a Measure P exemption, we would need to find a location before December. The best placement for this home would be in a neighborhood with similarly designed homes. The City does not own any such property. Therefore, we would need to find a private party who would be interested in placing this building on their property. The project could be funded through the RDA's Housing Rehab Loan Program if the owner would agree to rent the units to very low and low income tenants for between \$815 to \$1,296 per month or require Section 8 tenants. The former tenants were paying \$1,100 and \$1,300 per month.

The duplex is in fair condition but major rehab would be needed if the building was moved. Both units need to be fully remodeled inside and the move would require major foundation, plumbing, electrical, phone, roofing, stucco and landscaping site improvement work. I have not prepared a scope of work but the project would most likely cost between \$100,000 to \$150,000. Without a specific location, an accurate cost estimate can not be determined due to unknown factors such as potential site development costs. This is a project that could easily experience unforeseen costs such as repairs for mold and termite damage.

Public Works would like to see the home removed no later than February 2003 to avoid delays in the roadway project. This only gives us four months to do the following:

1. Change the exemption policy for Measure P
2. Find a location
3. Negotiate an agreement with property owner
4. Prepare plans for the permit process
5. Prepare final plans and spec documents for bidding process
6. Award bids
7. Move building

This assumes no unforeseen issues with the building or contractor availability. We could store the building but we would need to find a location and negotiate an agreement with the owner. I do not recommend storing the duplex on City/Agency properties due to the location and planned activity for available properties and the extra cost in moving the building twice.

The weakest link in this project is the private property owner. While it may appear attractive at first to receive a free building, I expect the property owner to back out when they learn of all the costs and the limited rate of return due to the affordable rental restrictions. I would expect higher returns if they built a new unit without rental restrictions or developed a home that could be sold at market rates. Also the amount of work and decisions needed to be made in a short time could be stressful for a person unfamiliar with development. I believe all these factors would cause the roadway project to be delayed unless we find a location to store the building. Storing this building would

cause extra moving expenses and cause a temporary blight condition at the location of which it is stored.

Giving the building away without rehab: Public Works had tried this approach by contacting 10 local home moving contractors to see if they or their clients had any interest in this home. None of these contractors showed any interest and are not aware of any persons who would. Part of the problem may be related to the fact that the duplex was moved in the 1980's and there were some concerns of its structural integrity during a second move. We could publish a notice to determine if there are any interested parties in this duplex. Our preference would be to have the home moved out of town. This would avoid the issue of Measure P and storage of the building in town. If the City prefers to preserve the unit in town, then we should maintain control and find a suitable location rather than a third party without a specified development agreement. To avoid impacting the Butterfield property we should recommend staff approach Council about amending its Measure P exemption policy.

Demolishing the building: Demolition is the most cost effective and timely method not to delay the Butterfield project. The permitting and construction activities are much faster and easier for demolition. Public Works has indicated they can delay demolition of the duplex until February, however the current bid for \$12,316 expires October 1st.

Most of the demolition debris can be recycled with the use of Green Valley Disposal and Zanker Road Landfill. Green Valley Disposal trucks its dumpsters to Zanker Road Landfill and this landfill recycles 90% of its basic waste, including demolition debris. South Valley Disposal can only recycle sorted clean wood waste, such as the studs of the building and the vegetation in the yard. With the franchise agreement with South Valley Disposal we would have to meet a 95% recycle rate. This can be done if the materials are sorted to exclude non-recyclable materials. Miscellaneous materials that are non-recyclable can be transferred to the San Martin dump site. The recycling would come at a higher contract cost due to the amount of time it would take to change out dumpsters and sort debris.

Conclusion: While relocating the home would be a desirable alternative to demolition, it does come with more risk and cost. It would provide two additional low income units, but with the style and building standards of the 1970's. Relocation would only be a true success if the right location is matched with the right property owner. Without an exemption to Measure P, we should not recommend storing the unit on a site until an allocation is awarded. Similarly, we should not recommend converting the duplex into a single family residence.

Assuming Council supports a revision and the preservation of this duplex, we would need to negotiate an agreement by December. If we do not have a "deal" in place by December 31, 2002, Public Works should proceed with demolition so not to delay the Butterfield project. Although this project is much smaller than the Murphy Ranch and Jasmine Square projects, it will require similar amounts of staff time to negotiate an agreement due to its complexity. Murphy Ranch and Jasmine Square will add about 130 affordable units to the community.



CITY COUNCIL STAFF REPORT

MEETING DATE: *September 4, 2002*

Agenda Item # 14

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager

COMMUNITY AND CULTURAL CENTER PROJECT ADDITIONAL FUNDING REQUEST

RECOMMENDED ACTION(S):

- 1) Appropriate an additional \$480,000 from the current Redevelopment Agency's project contingency balance to augment the total project budget.
- 2) Appropriate \$250,000 for park development costs from the current unappropriated Park Impact Fund balance (see attached memo).
- 3) Approve amendment to consultant agreement with Consolidated CM to add \$80,590 to their current \$284,545 contract.
- 4) Approve amendment to consultant agreement with David F. Eddings Associates to add \$28,800 to their current \$96,000 contract.

EXECUTIVE SUMMARY: Council action in September, 2001 awarded the contract for construction of the Community Center Project to DPR Construction, Inc. At that time, Council adopted a project budget of \$13,490,200 which included a minimal contingency of \$261,072 (or 2.4% of the construction contract). Staff was also directed to augment the contingency with value engineering (VE) estimated at \$250,000. Staff was directed to work with a Council sub-committee, and from a list of staff recommended deductive changes, the committee approved VE change orders totaling \$261,738. It would be possible to make further deductive VE changes that would not likely reduce the functionality of the building, but they might diminish the quality of the project. Attached is a summary sheet detailing the additional appropriation request and funding recommendation from staff.

As reported to Council, some unanticipated problems during construction require additional funding. These problems range from unforeseen conditions (including unsuitable subgrade and adverse weather) to deficiencies in the design team's construction documents (including steel delays from errors/omissions). As Council was advised, the steel delay problem also delayed the completion schedule which led to additional professional service charges.

This additional funding request also includes an appropriation for additional construction management services from Consolidated CM. Consolidated CM (CCM) is due additional services as explained in the attached memo. Council action on June 19, 2002 authorized an amendment to the design team's (VBN's) consultant agreement for additional design work in the amount of \$183,525 from our construction contingency funds. Rather than fund these additional design fees from the construction contingency, it is recommended with this action that these changes be funded from our RDA unallocated project contingency funds. It will also be necessary to increase the total compensation due our contract compliance inspector, David F. Eddings Associates. Their original agreement was for ten months of construction at \$9,600 per month. With the current estimated contract completion at the end of November, it will be necessary to increase for three months, or \$28,800.

It may be possible to 'recoup' a portion of the construction cost overruns attributed to deficiencies in the design teams documents. We are currently analyzing this possibility which could yield substantial reimbursement from the design team.

FISCAL IMPACT: \$480,000 is requested from the Redevelopment Agency's unappropriated fund balance and \$250,000 from unappropriated Park Development fund balance to be added to the project budget as identified in this report.

Community and Cultural Center - New Appropriation Request

	<u>AMOUNT</u>	<u>Cumulative</u>	<u>Notes</u>
VBN Additional Design Svc.	\$183,525		
Approved VE	-\$261,738	-\$78,213	
Approved Change Orders	\$562,743	\$484,530	
Remaining Additional Costs	\$456,707	\$941,237 incl. \$15K Grand Opening	
Budgeted Contingency	-\$262,072	\$679,165	Activities
Additional CCM/Eddings	\$109,390	\$788,555	
Additional VE	-\$20,000	\$768,555	If no additional changes
	\$768,555		

Recommended Funding Sources

Park Development (1.25 Ac. @ \$200K/Ac.)	-\$250,000	\$518,555	
Pavement Maintenance Budget *	-\$20,000	\$498,555	Additional Paving
Water Operations Budget *	-\$10,000	\$488,555	Remove water main
Building Maintenance Budget *	-\$10,000	\$478,555	Security cams, etc
RDA-Unallocated Project Contingency	\$478,555		
	(say \$480,000)		

Note * - no additional appropriation required, funds exist in the FY 02/03 operational budgets

NOTE:

We have negotiated change orders to date for additional work performed by DPR in the amount of \$562,743. We are conservatively anticipating pending change orders in the amount of \$546,707. Adding these two amounts totals 9.9% of the original construction contract amount of \$11,021,228.



CITY COUNCIL STAFF REPORT

MEETING DATE: September 4, 2002

REQUEST FROM SANTA CLARA COUNTY DOMESTIC VIOLENCE COUNCIL FOR CITY SPONSORSHIP OF THE 10TH ANNUAL DOMESTIC VIOLENCE CONFERENCE

RECOMMENDED ACTIONS:

Council Discussion and Direction

EXECUTIVE SUMMARY:

A letter has been received by Mayor Kennedy requesting that the City consider supporting Santa Clara County, Domestic Violence Council's 10th annual domestic conference – "Ending Family Violence: A Decade of Progress" in the amount of \$1,000. The conference is scheduled to take place on Friday, October 4, 2002 at the Fairmont Hotel in San Jose.

In past years the City Council supported staff's inclusion of \$5,000 for non profit agency sponsorship under the Community Promotions budget. As part of budget preparation for Fiscal Year 2002-03, staff was instructed to reduce budget accounts by 5%. In order to meet the budget reduction, the \$5,000 for non profit agency funding was excluded with the exception of funding for the Independence Day Inc. Fourth of July Activities. The Council, as part of the Fiscal Year 2002-03 budget, appropriated \$20,000 in Community Promotion fund 1220 to be used as follows: Taste of Morgan Hill – \$5,000, IDI – \$5,000, and Project Youth Empowered for Success (YES) – \$10,000. Staff will note that these activities are held locally and benefit citizens of Morgan Hill.

Staff is seeking Council direction regarding funding/sponsorship for non profit agency activities. Should the Council wish to sponsor and fund this event, this could be accommodated from the Community Promotion budget, reducing funding for one of the three activities specifically identified above. As an alternative, the Council could appropriate an additional \$5,000 to the Community Promotion budget in order to provide funding to sponsor this event and other requests from non profit agencies that may be received during the fiscal year.

FISCAL IMPACT: Should the City Council wish to sponsor the Santa Clara County, Domestic Violence Council's annual domestic violence conference, the budget allocation could be accommodated and charged to Account No. 010-42248-1220. As an alternative, the Council could appropriate additional funding from the fund balance.

Agenda Item # 15

**Prepared/Approved
By:**

**Council Services and
Records Manager**

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 4, 2002

Agenda Item # 16

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1581, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 3.56.050 of CHAPTER 3.56 (Development Impact Mitigation Fees) of TITLE 3 (Revenue and Finance) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING DEVELOPMENT IMPACT MITIGATION FEES

RECOMMENDED ACTION(S): Motion to Adopt Ordinance No. 1581, New Series.

EXECUTIVE SUMMARY:

On August 21, 2002 , the City Council Introduced Ordinance No. 1581, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT: The amount to be collected from future development, as projected until build-out, for the 8 impact fees with adjustments would be nearly \$195 million. However, this amount could be reduced by as much as \$6.4 million, if all eligible projects took advantage of potential payment options. This shortfall would need to be picked up by other funding sources and could not be charged to future development.

ORDINANCE NO. 1581, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTIONS 3.56.050 of CHAPTER 3.56 (Development Impact Mitigation Fees) of TITLE 3 (Revenue and Finance) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING DEVELOPMENT IMPACT MITIGATION FEES

WHEREAS, new development within the City of Morgan Hill will result in additional population and business growth, and such growth will place additional burdens on various city facilities, infrastructure and services, requiring construction of expanded and/or new city facilities and services; and,

WHEREAS, all development within the City of Morgan Hill should bear a proportionate financial burden in the construction and improvement of public facilities and services which are necessary to serve the growth engendered by such development; and,

WHEREAS, the imposition of development impact fees is the preferred method of ensuring that new development bears its proportionate share of the cost of public facilities and service improvements; and,

WHEREAS, imposition of impact fees to finance public facilities and service improvements required by new development is necessary in order to avoid adversely impacting existing facilities and services; and,

WHEREAS, consistent with these principles, Chapter 3.56 of the Municipal Code of the City of Morgan Hill establishes Development Impact Mitigation Fees; and,

WHEREAS, Section 3.56.060 of the Municipal Code of the City of Morgan Hill provides for revision of established fees, including increases, by resolution; and,

WHEREAS, the City Council of the City of Morgan Hill has received and duly considered the reports entitled "Development Impact Fee Study," dated May 9, 2002, authored by DMG Maximus and "Water and Sewer Rate and Connection Fee Study" dated May 17, 2002, by Hilton Farnkopf & Hobson, LLC ("Hilton"); and,

WHEREAS, based upon the DMG Maximus and Hilton reports, and the evidence presented to it, the City Council deems it necessary that development impact fees be adjusted to ensure that new development in the city pays its proportionate share of public facilities and service improvements necessary to accommodate such development in order to promote the public health, safety and welfare; and,

WHEREAS, the adjustment of development impact fees necessitates minor revisions to the Municipal Code provisions regarding such fees; and,

WHEREAS, a public hearing on adoption of this ordinance was duly noticed, and held as part of a regular City Council meeting held on August 21, 2002, at 7:30 p.m. in the Council chambers located at City Hall, 17555 Peak Avenue; and,

WHEREAS, the City Council has received and duly considered all written and verbal comments provided to it by staff and the public, which comments are hereby incorporated into the record on this matter; and,

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3.56.050 of the Municipal Code of the City of Morgan Hill is hereby amended to provide:

“Each fee imposed by this chapter shall be adjusted automatically on ~~July 1st~~ January 15th of each fiscal year, beginning on ~~July 1, 1994~~ January 15, 2004, by a percentage equal to the Engineering Cost Index as published by Engineer News Record for the ~~preceding~~ preceding twelve ~~months~~ month period ending the previous March. Each fee imposed by this chapter shall also be adjusted automatically on January 15, 2003, by a percentage equal to the Engineering Code Index as published by the Engineering News Record for the three month period beginning January 2002 through March 2002. This automatic adjustment shall not apply to fees which are based on variable factors which result in automatic adjustments or those which specifically indicate otherwise.”

SECTION 2. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 3. Exemption from CEQA. Pursuant to Title 14, California Code of Regulations, Sections 15061 and 15273(4), the City Council finds that this ordinance is exempt from the California Environmental Quality Act.

SECTION 4. Effective Date; Publication. This Ordinance shall take effect from and after sixty (60) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

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This ordinance was introduced at a Regular Meeting of the City Council of the City of

Morgan Hill held on the 21st day of August, 2002, and was finally adopted at a Regular meeting of said Council on the 4th day of September, 2002; by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1581, New Series, adopted by the City Council of the City of Morgan Hill, California at their Regular meeting held on the 4th day of September, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: SEPTEMBER 4, 2002

ADOPT ORDINANCE NO. 1582, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING OF A DEVELOPMENT AGREEMENT, DA-02-03: HALE-GLENROCK/SHEA FOR APPLICATION MP 01-04: TILTON-GLENROCK (APN's 764-09-026 & 027)

Agenda Item # 17

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

RECOMMENDED ACTION(S): Motion to Adopt Ordinance No. 1582, New Series.

EXECUTIVE SUMMARY:

On August 21, 2002 , the City Council Introduced Ordinance No. 1582, New Series, by the Following Roll Call Vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1582, NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MORGAN HILL APPROVING OF A DEVELOPMENT
AGREEMENT, DA-02-03: HALE-GLENROCK/SHEA FOR
APPLICATION MP 01-04: TILTON-GLENROCK (APN's 764-
09-026 & 027)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. Pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, 11 building allotments were awarded to application MP 01-04: Tilton-Glenrock for fiscal year 2003-2004; and

<u>Project</u>	<u>Total Dwelling Units</u>
MP 01-04: Tilton-Glenrock	11 building allotments

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30)

days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at a special meeting of the City Council of the City of Morgan Hill held on the 21st day of August, 2002 and was finally adopted at a regular meeting of said Council on the 4th day of September, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

☪ CERTIFICATE OF THE CITY CLERK ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1582, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 4th day of September, 2002.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



REDEVELOPMENT AGENCY

MEETING DATE: *September 4, 2002*

WATSONVILLE ROAD HOUSING CONCEPT

RECOMMENDED ACTION(S):

Approve the development concept for teacher/police officer/other public employee housing on the Redevelopment Agency-owned property on Watsonville Road.

EXECUTIVE SUMMARY:

About 12 years ago, the Redevelopment Agency purchased an approximately one-acre site on Watsonville Road (see attached map) for the purpose of developing a new Fire Station. Based on the City's latest Fire Master Plan, fire protection needs in Morgan Hill have since shifted and the site is no longer needed for this purpose.

In January 2002 the City Council adopted its annual goals. One of these goals was to develop recommendations on how the City and the Morgan Hill Unified School District can assist teachers with obtaining affordable housing. Staff determined that the Watsonville Road property could be used for this purpose. In April 2002, a Request for Qualification/Project Concept (RFQ) was issued for the development of the Watsonville site as housing for teachers, police officers and other public employees. While teachers will be given first priority, police officers and public employees were included because of the unknown demand for a teachers only project. The RFQ was mailed to twelve developers, both for-profit and non-profit. Only one, South County Housing (SCH), responded.

SCH proposes to develop approximately seven for-sale duet homes, similar to those in the neighboring subdivision. The units will be affordable to qualifying Low and Median-income households (up to \$93,000) and should be attractive to entry-level teachers earning approximately \$40,000. No Moderate-income units are included in order for the project to qualify for the Measure P Affordable Competition, and to avoid competing with the Measure P Market-Rate units. An allocation received this year would mean SCH could pull building permits in April 2004.

A contribution by the Agency will be necessary in order to make the project financially feasible. SCH is requesting that the Agency: 1) contribute the land, estimated at \$400,000, and 2) provide approximately \$800,000 in Agency 20% Housing funds for permanent and pre-development financing. Since SCH estimates that \$250,000 will be repaid at construction loan closing, the total Agency investment would be \$950,000 including the land value. The Agency funds would be secured by "silent second" mortgages on the property and/or resale restrictions. However, the specific structure of the affordability restrictions for the project has yet to be determined.

Staff is seeking Agency approval of this project concept. If approved, staff will: 1) negotiate an agreement with SCH for the development of the project, including a pre-development loan; 2) direct SCH to proceed with a Measure P application for this FY02/03; and 3) proceed with a General Plan Amendment to change the property's designation from Public Facilities to Multi-family Housing. The above actions will all return to the Agency/City Council for approval.

FISCAL IMPACT: Sufficient funds have been allocated in the Agency's 327 FY2002-2003 Budget to finance this project. Staff recommends that \$400,000 in Agency's 20% Housing Set-Aside fund (Fund 327) be repaid to the Agency 80% fund (Fund 317) for the market value of the property, since 317 funds were originally used to purchase the site.

Agenda Item # 18

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By: